

2013 DRAFTING REQUEST

Bill

Received:	10/30/2012	Received By:	phurley
Wanted:	As time permits	Same as LRB:	
For:	Jon Richards (608) 266-0650	By/Representing:	Adrienne
May Contact:		Drafter:	phurley
Subject:	Criminal Law - sentencing Drunk Driving - other	Addl. Drafters:	
		Extra Copies:	

Submit via email: **YES**
 Requester's email: **Rep.Richards@legis.wisconsin.gov**
 Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Counting OWI convictions toward habitual criminality

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	phurley 11/19/2012	evinz 11/19/2012	rschluet 11/5/2012	_____	lparisi 11/5/2012		State S&L
/1	phurley 8/6/2013		phenry 11/19/2012	_____	lparisi 11/19/2012		State S&L
/2	phurley 9/16/2013	evinz 8/16/2013	rschluet 8/19/2013	_____	srose 8/19/2013		State S&L
/3	phurley	evinz	jfrantze	_____	lparisi		State

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	9/23/2013	9/17/2013	9/17/2013	_____	9/17/2013		S&L
/4	phurley 11/26/2013	evinz 9/23/2013	rschluet 9/24/2013	_____	lparisi 9/24/2013		State S&L
/5		evinz 12/6/2013	rschluet 12/9/2013	_____	lparisi 12/9/2013	mbarman 1/22/2014	

FE Sent For:

*None
Needed*

<END>

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Drunk Driving - other Extra Copies:

Submit via email: **YES**
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Topic:

Counting OWI convictions toward habitual criminality ✓

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jm
naB

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FE Sent For:

15 eev
12/6/13

15 eev
12/6/13
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/3		evinz	jfrantze	_____	lparisi		State

[Handwritten signature and date 9/24/13]

Vers. DraftedReviewed

9/17/2013

Typed

9/17/2013

Proofed Submitted

9/17/2013

JacketedRequired

S&L

FE Sent For:

14 eev

9/23/13

<END>

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Pre Topic:

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Counting OWI convictions toward habitual criminality

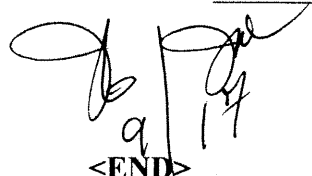
Instructions:

See attached

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FE Sent For:

13 eev
9/17/13

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		Extra Copies:	

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 Carbon copy (CC) to:

Pre Topic:

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Topic:

Counting OWI convictions toward habitual criminality

Instructions:

See attached

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FE Sent For:

12 eev
8/16/13
12 eev
8/16/13
P21
<END>

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Wanted: As time permits Same as LRB:
For: Jon Richards (608) 266-0650 By/Representing: Adrienne
May Contact: Drafter: phurley
Subject: Criminal Law - sentencing
Drunk Driving - other Addl. Drafters:
Extra Copies:

Submit via email: YES
Requester's email: Rep.Richards@legis.wisconsin.gov
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Counting OWI convictions toward habitual criminality

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	phurley 10/31/2012	evinz 11/5/2012	11/5/2012		lparisi 11/5/2012		State S&L

FE Sent For:

1 rev 11/19/12 1 rev 11/19/12 11/19/12

<END>

2013 DRAFTING REQUEST

Bill

Received:	10/30/2012	Received By:	phurley
Wanted:	As time permits	Companion to LRB:	
For:	Jon Richards (608) 266-0650	By/Representing:	Adrienne
May Contact:		Drafter:	phurley
Subject:	Criminal Law - sentencing Drunk Driving - other	Addl. Drafters:	
		Extra Copies:	

Submit via email: **YES**
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Counting OWI convictions toward habitual criminality

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/P1	phurley	/pl eev		_____	_____		

FE Sent For:

<END>

Hurley, Peggy

From: Ramirez, Adrienne
Sent: Tuesday, October 30, 2012 2:42 PM
To: Hurley, Peggy
Subject: RE: drafting request

Hey Peggy –

Thanks for getting back to me. I don't think we need to include the non-criminal offenses you mentioned.
Adrienne

From: Hurley, Peggy
Sent: Tuesday, October 30, 2012 2:38 PM
To: Ramirez, Adrienne
Subject: RE: drafting request

Hi Adrienne,

I can draft this. It appears that the repeater statute does not count any traffic laws covered in chapters 341 to 349, including OWI offenses. I could use the usual shortcut to require courts to count "suspensions, revocations, and other convictions counted under s. 343.307 (1)," but that may be too inclusive. Do you want to include first (i.e., noncriminal) OWI offenses, ordinance violations in conformity with OWI laws, and revocations or suspensions due to refusals?

Peggy

From: Ramirez, Adrienne
Sent: Tuesday, October 30, 2012 9:42 AM
To: Hurley, Peggy
Subject: drafting request

Peggy –

It was brought to our attention by an Assistant District Attorney that repeat OWI offenses are not counted towards the habitual criminal statute 939.62. Could you please draft a proposal that would correct this oversight?

As always, thank you for your help!

Adrienne Ramirez
Office of Representative Jon Richards
State Capitol, 118 North
Madison, WI 53708
(608) 266-0650

Facebook: [facebook.com/RepJonRichards](https://www.facebook.com/RepJonRichards)
Twitter: @RepRichards



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0467/P1

PJH...

eev

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

10-31-12
note

1 AN ACT ^{gen cat}; relating to: habitual criminal offenders.

Analysis by the Legislative Reference Bureau

Under current law, a court may impose a longer term of imprisonment than is normally prescribed on a person who is convicted of a crime if the person is a repeater, or habitual criminal. A person is a repeater if he or she was convicted of a felony during the five-year period immediately preceding the commission of the crime for which he or she is being sentenced, or if he or she was convicted of a misdemeanor on three separate occasions during that same period. Under current law, misdemeanors and felonies that are traffic violations, including certain offenses related to drunken driving, are not counted for the purpose of determining whether a person is a repeater.

Under this bill, misdemeanor or felony violations related to drunken driving are counted for the purpose of determining whether a person is a repeater. a

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 SECTION 1. 939.62 (3) ^{(a) and (b) are} of the statutes ~~is~~ amended to read:

3 939.62 (3) In this section "felony" and "misdemeanor" have the following

4 meanings:

run in

(a) In case of crimes committed in this state, the terms do not include motor vehicle offenses under chs. 341 to 349, except for criminal violations of s. 346.63, and offenses handled through proceedings in the court assigned to exercise jurisdiction under chs. 48 and 938, but otherwise have the meanings designated in s. 939.60.

(b) In case of crimes committed in other jurisdictions, the terms do not include those crimes which are equivalent to motor vehicle offenses under chs. 341 to 349, except for criminal violations of s. 346.63, or to offenses handled through proceedings in the court assigned to exercise jurisdiction under chs. 48 and 938. Otherwise, felony means a crime which under the laws of that jurisdiction carries a prescribed maximum penalty of imprisonment in a prison or penitentiary for one year or more. Misdemeanor means a crime which does not carry a prescribed maximum penalty sufficient to constitute it a felony and includes crimes punishable only by a fine.

History: 1977 c. 449; 1989 a. 85; 1993 a. 289, 483, 486; 1995 a. 77, 448; 1997 a. 219, 283, 295, 326; 1999 a. 32, 85, 188; 2001 a. 109; 2005 a. 14, 277; 2007 a. 116.

(END)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0467/P1dn

J.H.
PJH/eev

Date

Adrienne,

Please review this draft to ensure that it is consistent with your intent. Please note that, as drafted, the only violations in chapters 341 to 349 that may be counted for purposes of determining who is a repeater are criminal violations of s. 346.63. If you would like any other criminal violations within those chapters to be counted, please let me know.

Please also note that I did not include any violations of s. 346.63 in the definition of "serious felony" for purposes of determining whether a person is a "persistent repeater" and potentially subject to life imprisonment without the possibility of parole or extended supervision. If this is not your intent, please let me know. If you have any questions or would like any changes to this draft, please let me know.

Peggy Hurley
Legislative Attorney
Phone: (608) 266-8906
E-mail: peggy.hurley@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0467/P1dn
PJH:eev:rs

November 5, 2012

Adrienne,

Please review this draft to ensure that it is consistent with your intent. Please note that, as drafted, the only violations in chapters 341 to 349 that may be counted for purposes of determining who is a repeater are criminal violations of s. 346.63. If you would like any other criminal violations within those chapters to be counted, please let me know.

Please also note that I did not include any violations of s. 346.63 in the definition of "serious felony" for purposes of determining whether a person is a "persistent repeater" and potentially subject to life imprisonment without the possibility of parole or extended supervision. If this is not your intent, please let me know. If you have any questions or would like any changes to this draft, please let me know.

Peggy Hurley
Legislative Attorney
Phone: (608) 266-8906
E-mail: peggy.hurley@legis.wisconsin.gov



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0467/P1

PJH:eev:rs

Stays

mmr

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

11-19-12

PWF

Insert 1

- 1 AN ACT ^{regen} to amend 939.62 (3) (a) and (b) of the statutes; relating to: habitual
2 criminal offenders.

Analysis by the Legislative Reference Bureau

Under current law, a court may impose a longer term of imprisonment than is normally prescribed on a person who is convicted of a crime if the person is a repeater, or habitual criminal. A person is a repeater if he or she was convicted of a felony during the five-year period immediately preceding the commission of the crime for which he or she is being sentenced, or if he or she was convicted of a misdemeanor on three separate occasions during that same period. Under current law, misdemeanors and felonies that are traffic violations, including certain offenses related to drunken driving, are not counted for the purpose of determining whether a person is a repeater. ^{the}

Under ^{the} this bill, misdemeanor or felony violations related to drunken driving are counted for the purpose of determining whether a person is a repeater. ^{dwi}

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 3 SECTION 1. 939.62 (3) (a) and (b) of the statutes are amended to read:

Insert 4

dwi offenses

939.62 (3) (a) In case of crimes committed in this state, the terms do not include motor vehicle offenses under chs. 341 to 349, except for criminal violations of s. 346.63, and offenses handled through proceedings in the court assigned to exercise jurisdiction under chs. 48 and 938, but otherwise have the meanings designated in s. 939.60.

(b) In case of crimes committed in other jurisdictions, the terms do not include those crimes which are equivalent to motor vehicle offenses under chs. 341 to 349, except for criminal violations of s. 346.63, or to offenses handled through proceedings in the court assigned to exercise jurisdiction under chs. 48 and 938. Otherwise, felony means a crime which under the laws of that jurisdiction carries a prescribed maximum penalty of imprisonment in a prison or penitentiary for one year or more. Misdemeanor means a crime which does not carry a prescribed maximum penalty sufficient to constitute it a felony and includes crimes punishable only by a fine.

(END)



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-3506/1

PJH:med:ph

2011 ASSEMBLY BILL 433

December 16, 2011 - Introduced by Representatives STASKUNAS, PASCH, C. TAYLOR, SPANBAUER, CLARK, RICHARDS, ZEPNICK, HULSEY and MOLEPSKE JR, cosponsored by Senators C. LARSON, CARPENTER, S. COGGS and SCHULTZ. Referred to Committee on Homeland Security and State Affairs.

Insert 1

- 1 AN ACT *to repeal* 343.301 (1g) (b) 1. and 343.301 (1g) (b) 2.; and *to renumber*
2 *and amend* 343.301 (1g) (b) (intro.) of the statutes; **relating to:** requiring an
3 ignition interlock device for first drunken driving offenses *and counting*
certain drunken driving offenses when sentencing certain

Analysis by the Legislative Reference Bureau

Under current law, a court is required to order a person's motor vehicle operating privilege be restricted to operating vehicles that are equipped with an ignition interlock device if a person commits a second or subsequent offense related to operating a vehicle while intoxicated, *(DUI offense)* or a first offense while his or her alcohol concentration is 0.15 or greater, refuses to take a test for intoxication, or injures or kills a person while operating a vehicle while intoxicated. Under current law, the operating privilege restriction stays in place for not less than one year nor more than the maximum operating privilege revocation period permitted for the refusal or violation.

Insert 2
Insert 3
DUI This bill requires a court to order the operating privileges of a person who commits a first offense related to operating a vehicle while intoxicated, regardless of his or her alcohol concentration, be restricted to operating vehicles that are equipped with an ignition interlock device. The ~~bill~~ *bill* does not change the minimum or maximum periods for the restriction.

while his or her alcohol concentration is greater than 0.15 or higher or after he or she has committed a prior DUI offense.

ASSEMBLY BILL 433

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 343.301 (1g) (b) (intro.) of the statutes is renumbered 343.301 (1g)

2 (b) and amended to read:

3 343.301 (1g) (b) (intro.) The person violated s. 346.63 (1) or (2), 940.09 (1), or
4 940.25 and either of the following applies:

5 **SECTION 2.** 343.301 (1g) (b) 1. of the statutes is repealed.

6 **SECTION 3.** 343.301 (1g) (b) 2. of the statutes is repealed.

7 (END)

Insert 4

SA/
xref/

Hurley, Peggy

From: Ramirez, Adrienne
Sent: Friday, August 02, 2013 11:48 AM
To: Hurley, Peggy
Subject: Redraft - LRB 0467

Peggy –

Could you please re-draft LRB-0467 to require an IID be installed at the time of conviction, rather than when DOT issues an occupational license. We might need to provide a 24 or 48 hour grace-period for this.

Also please add a provision making it a crime to manufacture, sell or process a device designed or used to circumvent the IID. Apparently there is a new device being marketed in some states to interfere with IID functions.

Thanks for adding these two changes.

Please let me know if you have any questions.

Adrienne Ramirez
Office of Representative Jon Richards
State Capitol, 118 North
Madison, WI 53708
(608) 266-0650

Facebook: [facebook.com/RepJonRichards](https://www.facebook.com/RepJonRichards)
Twitter: @RepRichards



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0467/1

PJH:eev:ph

2013 BILL

8-6-13

repeal

to be installed on
certain
vehicles

interfering with the
proper functioning of an
ignition interlock
device, and
providing a
penalty

1 AN ACT to repeal 343.301 (1g) (b) 1. and 343.301 (1g) (b) 2.; to renumber and
2 amend 343.301 (1g) (b) (intro.); and to amend 939.62 (3) (a) and (b) of the
3 statutes; relating to: requiring an ignition interlock device for first drunken
4 driving offenses, and counting certain drunken driving offenses when
5 sentencing certain habitual criminal offenders.

Analysis by the Legislative Reference Bureau

Under current law, a court is required to order a person's motor vehicle operating privilege be restricted to operating vehicles that are equipped with an ignition interlock device if a person commits a second or subsequent offense related to operating a vehicle while intoxicated (OWI offense) or a first offense while his or her alcohol concentration is 0.15 or greater, refuses to take a test for intoxication, or injures or kills a person while operating a vehicle while his or her alcohol concentration is 0.15 or greater or after he or she has committed a prior OWI offense. Under current law, the operating privilege restriction stays in place for not less than one year nor more than the maximum operating privilege revocation period permitted for the refusal or violation.

Under current law, a court may impose a longer term of imprisonment than is normally prescribed on a person who is convicted of a crime if the person is a repeater, or habitual criminal. A person is a repeater if he or she was convicted of a felony during the five-year period immediately preceding the commission of the crime for which he or she is being sentenced, or if he or she was convicted of a misdemeanor

BILL

on three separate occasions during that same period. Under current law, misdemeanors and felonies that are traffic violations, including certain OWI offenses, are not counted for the purpose of determining whether a person is a repeater.

This bill requires a court to order the operating privileges of a person who commits a first OWI offense, regardless of his or her alcohol concentration, be restricted to operating vehicles that are equipped with an ignition interlock device. The bill does not change the minimum or maximum periods for the restriction.

Under the bill, misdemeanor or felony OWI offenses are counted for the purpose of determining whether a person is a repeater.

For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

Insert 2A

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 343.301 (1g) (b) (intro.) of the statutes is renumbered 343.301 (1g)

(b) and amended to read:

343.301 (1g) (b) (intro.) The person violated s. 346.63 (1) or (2), 940.09 (1), or 940.25 and either of the following applies:

SECTION 2. 343.301 (1g) (b) 1. of the statutes is repealed.

SECTION 3. 343.301 (1g) (b) 2. of the statutes is repealed.

SECTION 4. 939.62 (3) (a) and (b) of the statutes are amended to read:

939.62 (3) (a) In case of crimes committed in this state, the terms do not include motor vehicle offenses under chs. 341 to 349, except for criminal violations of s. 346.63, and offenses handled through proceedings in the court assigned to exercise jurisdiction under chs. 48 and 938, but otherwise have the meanings designated in s. 939.60.

(b) In case of crimes committed in other jurisdictions, the terms do not include those crimes which are equivalent to motor vehicle offenses under chs. 341 to 349, except for criminal violations of s. 346.63, or to offenses handled through proceedings

BILL

1 in the court assigned to exercise jurisdiction under chs. 48 and 938. Otherwise,
2 felony means a crime which under the laws of that jurisdiction carries a prescribed
3 maximum penalty of imprisonment in a prison or penitentiary for one year or more.
4 Misdemeanor means a crime which does not carry a prescribed maximum penalty
5 sufficient to constitute it a felony and includes crimes punishable only by a fine.

6

(END)

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0467/lins
PJH:eev:ph

* tampering = possessing a device intended to circumvent

INSERT ANALYSIS:

Under current law, a court is required to order a person's motor vehicle operating privilege be restricted to operating vehicles that are equipped with an ignition interlock device (IID) if a person commits a second or subsequent offense related to operating a vehicle while intoxicated (OWI offense) or a first offense while his or her alcohol concentration is 0.15 or greater, refuses to take a test for intoxication, or injures or kills a person while operating a vehicle while his or her alcohol concentration is 0.15 or greater or after he or she has committed a prior OWI offense. The court may order the person to install an IID on every vehicle registered in his or her name, unless the court finds that such an order would impose an undue hardship on the person.

with

Under current law, a person who fails to install an IID as ordered, or who tampers, disconnects, or otherwise interferes with the proper operation of an IID, may be fined not less than \$150 nor more than \$600, imprisoned for up to ~~6~~ months, or both for the first offense. For a second or subsequent conviction within five years, the person may be fined not less than \$300 nor more than \$1,000, imprisoned ~~or~~ up to six months, or both.

six

for

Under current law, a court may impose a longer term of imprisonment than is normally prescribed on a person who is convicted of a crime if the person is a repeater, or habitual criminal. A person is a repeater if he or she was convicted of a felony during the five-year period immediately preceding the commission of the crime for which he or she is being sentenced, or if he or she was convicted of a misdemeanor on three separate occasions during that same period.

Under current law, misdemeanors and felonies that are traffic violations, including certain OWI offenses, are not counted for the purpose of determining whether a person is a repeater.

This bill requires a court to order the operating privileges of a person who commits a first OWI offense, regardless of his or her alcohol concentration, be restricted to operating vehicles that are equipped with an ignition interlock device. The bill requires the court to order the person to install an IID within three working days on all vehicles registered in his or her name, except for motorcycles, unless such an order would impose an undue hardship on the person.

Under the bill, a person who is subject to an IID installation order and who possesses a device that is intended to interfere with the proper functioning of an IID may be fined not less than \$150 nor more than \$600, imprisoned for up to ~~6~~ months, or both for the first offense. For a second or subsequent conviction within five years, the person may be fined not less than \$300 nor more than \$1,000, imprisoned ~~or~~ up to six months, or both.

six

for

Under the bill, misdemeanor or felony OWI offenses are counted for the purpose of determining whether a person is a repeater.

INSERT 2.1:

SECTION 1. 343.301 (1g) (intro.) of the statutes is amended to read:

343.301 (1g) (intro.) A court shall order a person's operating privilege for the operation of "Class D" vehicles be restricted to operating vehicles that are equipped with an ignition interlock device and, except as provided in sub. (1m), shall order that each motor vehicle that is not a "Class M" vehicle for which the person's name appears on the vehicle's certificate of title or registration be equipped with an ignition interlock device if either of the following applies:

History: 1999 a. 109; 2001 a. 16 ss. 3417m to 3420t, 4060gj, 4060hw, 4060hy; 2001 a. 104; 2009 a. 100.

INSERT 2.6:

SECTION 2. 343.301 (2m) of the statutes is amended to read:

343.301 (2m) The court shall restrict the operating privilege under sub. (1g) for a period of not less than one year nor more than the maximum operating privilege revocation period permitted for the refusal or violation, beginning on the date the department issues any license granted under this chapter, except that if the maximum operating privilege revocation period is less than one year, the court shall restrict the operating privilege under sub. (1g) for one year. The court ~~may~~ shall order ~~the installation of that~~ an ignition interlock device under sub. (1g) ~~immediately upon~~ be installed within 3 working days after issuing an order under sub. (1g).

History: 1999 a. 109; 2001 a. 16 ss. 3417m to 3420t, 4060gj, 4060hw, 4060hy; 2001 a. 104; 2009 a. 100.

SECTION 3. 343.10 (5) (a) 3. of the statutes is amended to read:

343.10 (5) (a) 3. The occupational license of the applicant shall restrict the applicant's operation under the occupational license to vehicles that are equipped with a functioning ignition interlock device if the court has ordered under s. 343.301 (1g) that the person's operating privilege for Class D vehicles be restricted to

Insert
2A

operating vehicles that are equipped with an ignition interlock device or has ordered under s. 346.65 (6) (a) 1., 1999 stats., that the motor vehicle owned by the person and used in the violation or improper refusal be equipped with an ignition interlock device. A person to whom a restriction under this subdivision applies violates that restriction if he or she removes or disconnects an ignition interlock device, requests or permits another to blow into an ignition interlock device or to start a motor vehicle equipped with an ignition interlock device for the purpose of providing the person an operable motor vehicle without the necessity of first submitting a sample of his or her breath to analysis by the ignition interlock device, possesses a device that is intended to allow the user to circumvent or otherwise interfere with the operation of the ignition interlock device, or otherwise tampers with or circumvents the operation of the ignition interlock device. Except as provided in s. 343.301 (3) (b), if the occupational license restricts the applicant's operation to a vehicle that is equipped with an ignition interlock device, the applicant shall be liable for the reasonable costs of equipping the vehicle with the ignition interlock device.

History: 1973 c. 90, 218; 1975 c. 297; 1977 c. 29 s. 1654 (7) (a), (c); 1977 c. 193; 1979 c. 102, 316, 355; 1981 c. 20; 1983 a. 27, 525, 526; 1985 a. 32 s. 3; 1985 a. 71, 337; 1987 a. 3; 1989 a. 31, 38, 105, 359; 1991 a. 39, 269, 277; 1995 a. 113, 201, 269, 401, 436, 448; 1997 a. 35, 84, 237; 1999 a. 109; 2001 a. 16 ss. 3409f, 3409g, 4000hw, 4000hy; 2003 a. 33, 80, 200, 326; 2005 a. 443 s. 265; 2007 s. 20, 94; 2009 a. 100, 103; 2011 a. 23, 32.

SECTION 4. 343.301 (4) of the statutes is amended to read:

343.301 (4) A person to whom an order under sub. (1g) applies violates that order if he or she fails to have an ignition interlock device installed as ordered, removes or disconnects an ignition interlock device, requests or permits another to blow into an ignition interlock device or to start a motor vehicle equipped with an ignition interlock device for the purpose of providing the person an operable motor vehicle without the necessity of first submitting a sample of his or her breath to analysis by the ignition interlock device, possesses a device that is intended to allow the user to circumvent or otherwise interfere with the operation of the ignition

End
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2A

Begin
Ins 2.6A

interlock device, or otherwise tampers with or circumvents the operation of the ignition interlock device.

History: 1999 a. 109; 2001 a. 16 ss. 3417m to 3420~~X~~, 4060gj, 4060hw, 4060hy; 2001 a. 104; 2009 a. 100.

SECTION 5. 347.413 (1) of the statutes is amended to read:

347.413 (1) No person may remove, disconnect, tamper with, or otherwise circumvent the operation of an ignition interlock device installed in response to the court order under s. 346.65 (6), 1999 stats., or s. 343.301 (1), 2007 stats., or s. 343.301 (1g), or fail to have the ignition interlock device installed as ordered by the court. No person who is subject to a court order under s. 346.65 (6), 1999 stats., or s. 343.301 (1), 2007 stats., or s. 343.301 (1g) may possess a device that is intended to allow the user to circumvent or otherwise interfere with the operation of an ignition interlock device. This subsection does not apply to the removal of an ignition interlock device upon the expiration of the order requiring the motor vehicle to be so equipped or to necessary repairs to a malfunctioning ignition interlock device by a person authorized by the department.

History: 1991 a. 277; 1993 a. 213; 1999 a. 109; 2001 a. 16 ss. 3445f, 3445g, 4060hd, 4060hw, 4060hy; 2009 a. 100, 121.

End Ins 26 A

Adrienne @

- failure to install > penalty than
 - driving a vehicle not equipped
- wants same penalties as failure

✓ take out "working" p 4, line 13

13

but! driving while revoked is
already criminal - see insert notes.
Adrienne will get back to me on this



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0467/2
PJH:eev:ev

2013 BILL

9-16-13

regen

1 AN ACT *to repeal* 343.301 (1g) (b) 1. and 343.301 (1g) (b) 2.; *to renumber and*
2 *amend* 343.301 (1g) (b) (intro.); and *to amend* 343.10 (5) (a) 3., 343.301 (1g)
3 (intro.), 343.301 (2m), 343.301 (4), 347.413 (1) and 939.62 (3) (a) and (b) of the
4 statutes; **relating to:** requiring an ignition interlock device to be installed on
5 certain vehicles for first drunken driving offenses, counting certain drunken
6 driving offenses when sentencing certain habitual criminal offenders,
7 interfering with the proper functioning of an ignition interlock device, and
8 providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, a court is required to order a person's motor vehicle operating privilege be restricted to operating vehicles that are equipped with an ignition interlock device (IID) if a person commits a second or subsequent offense related to operating a vehicle while intoxicated (OWI offense) or a first offense while his or her alcohol concentration is 0.15 or greater, refuses to take a test for intoxication, or injures or kills a person while operating a vehicle while his or her alcohol concentration is 0.15 or greater or after he or she has committed a prior OWI offense. The court may order the person to install an IID on every vehicle registered in his or her name, unless the court finds that such an order would impose an undue hardship on the person.

BILL

Insert analysis

Under current law, a person who fails to install an IID as ordered, or who tampers with, disconnects, or otherwise interferes with the proper operation of an IID, may be fined not less than \$150 nor more than \$600, imprisoned for up to six months, or both for the first offense. For a second or subsequent conviction within five years, the person may be fined not less than \$300 nor more than \$1,000, imprisoned for up to six months, or both.

Under current law, a court may impose a longer term of imprisonment than is normally prescribed on a person who is convicted of a crime if the person is a repeater, or habitual criminal. A person is a repeater if he or she was convicted of a felony during the five-year period immediately preceding the commission of the crime for which he or she is being sentenced, or if he or she was convicted of a misdemeanor on three separate occasions during that same period.

Under current law, misdemeanors and felonies that are traffic violations, including certain OWI offenses, are not counted for the purpose of determining whether a person is a repeater.

Insert analysis

This bill requires a court to order the operating privileges of a person who commits a first OWI offense, regardless of his or her alcohol concentration, be restricted to operating vehicles that are equipped with an ignition interlock device. The bill requires the court to order the person to install an IID within three working days on all vehicles registered in his or her name, except for motorcycles, unless such an order would impose an undue hardship on the person.

Under the bill, a person who is subject to an IID installation order and who possesses a device that is intended to interfere with the proper functioning of an IID may be fined not less than \$150 nor more than \$600, imprisoned for up to six months, or both for the first offense. For a second or subsequent conviction within five years, the person may be fined not less than \$300 nor more than \$1,000, imprisoned for up to six months, or both.

Under the bill, misdemeanor or felony OWI offenses are counted for the purpose of determining whether a person is a repeater.

For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 343.10 (5) (a) 3. of the statutes is amended to read:

2 343.10 (5) (a) 3. The occupational license of the applicant shall restrict the
3 applicant's operation under the occupational license to vehicles that are equipped
4 with a functioning ignition interlock device if the court has ordered under s. 343.301
5 (1g) that the person's operating privilege for Class D vehicles be restricted to

BILL

operates a motor vehicle that is not equipped with an ignition interlock device, or if he or she

1 operating vehicles that are equipped with an ignition interlock device or has ordered
2 under s. 346.65 (6) (a) 1., 1999 stats., that the motor vehicle owned by the person and
3 used in the violation or improper refusal be equipped with an ignition interlock
4 device. A person to whom a restriction under this subdivision applies violates that
5 restriction if he or she removes or disconnects an ignition interlock device, requests
6 or permits another to blow into an ignition interlock device or to start a motor vehicle
7 equipped with an ignition interlock device for the purpose of providing the person an
8 operable motor vehicle without the necessity of first submitting a sample of his or her
9 breath to analysis by the ignition interlock device, possesses a device that is intended
10 to allow the user to circumvent or otherwise interfere with the operation of the
11 ignition interlock device, or otherwise tampers with or circumvents the operation of
12 the ignition interlock device. Except as provided in s. 343.301 (3) (b), if the
13 occupational license restricts the applicant's operation to a vehicle that is equipped
14 with an ignition interlock device, the applicant shall be liable for the reasonable costs
15 of equipping the vehicle with the ignition interlock device.

16 **SECTION 2.** 343.301 (1g) (intro.) of the statutes is amended to read:

17 343.301 (1g) (intro.) A court shall order a person's operating privilege for the
18 operation of "Class D" vehicles be restricted to operating vehicles that are equipped
19 with an ignition interlock device and, except as provided in sub. (1m), shall order that
20 each motor vehicle that is not a "Class M" vehicle for which the person's name
21 appears on the vehicle's certificate of title or registration be equipped with an
22 ignition interlock device if either of the following applies:

23 **SECTION 3.** 343.301 (1g) (b) (intro.) of the statutes is renumbered 343.301 (1g)

24 (b) and amended to read:

BILL

SECTION 3

1 343.301 (1g) (b) The person violated s. 346.63 (1) or (2), 940.09 (1), or 940.25
2 ~~and either of the following applies:~~

3 SECTION 4. 343.301 (1g) (b) 1. of the statutes is repealed.

4 SECTION 5. 343.301 (1g) (b) 2. of the statutes is repealed.

5 SECTION 6. 343.301 (2m) of the statutes is amended to read:

6 343.301 (2m) The court shall restrict the operating privilege under sub. (1g)
7 for a period of not less than one year nor more than the maximum operating privilege
8 revocation period permitted for the refusal or violation, beginning on the date the
9 department issues any license granted under this chapter, except that if the
10 maximum operating privilege revocation period is less than one year, the court shall
11 restrict the operating privilege under sub. (1g) for one year. The court ~~may~~ shall
12 ~~order the installation of that~~ an ignition interlock device under sub. (1g) immediately
13 ~~upon~~ be installed within 3 working days after issuing an order under sub. (1g).

14 SECTION 7. 343.301 (4) of the statutes is amended to read:

15 343.301 (4) A person to whom an order under sub. (1g) applies violates that
16 order if he or she fails to have an ignition interlock device installed as ordered,
17 removes or disconnects an ignition interlock device, requests or permits another to
18 blow into an ignition interlock device or to start a motor vehicle equipped with an
19 ignition interlock device for the purpose of providing the person an operable motor
20 vehicle without the necessity of first submitting a sample of his or her breath to
21 analysis by the ignition interlock device, possesses a device that is intended to allow
22 the user to circumvent or otherwise interfere with the operation of the ignition
23 interlock device, or otherwise tampers with or circumvents the operation of the
24 ignition interlock device.

25 SECTION 8. 347.413 (1) of the statutes is amended to read:

operates a motor vehicle that is not equipped with an
ignition interlock device,

insert
4.25

BILL

1 347.413 (1) No person may remove, disconnect, tamper with, or otherwise
2 circumvent the operation of an ignition interlock device installed in response to the
3 court order under s. 346.65 (6), 1999 stats., or s. 343.301 (1), 2007 stats., or s. 343.301
4 (1g), or fail to have the ignition interlock device installed as ordered by the court. No
5 person who is subject to a court order under s. 346.65 (6), 1999 stats., 343.301 (1),
6 2007 stats., or 343.301 (1g) may possess a device that is intended to allow the user
7 to circumvent or otherwise interfere with the operation of an ignition interlock
8 device. This subsection does not apply to the removal of an ignition interlock device
9 upon the expiration of the order requiring the motor vehicle to be so equipped or to
10 necessary repairs to a malfunctioning ignition interlock device by a person
11 authorized by the department.

12 **SECTION 9.** 939.62 (3) (a) and (b) of the statutes are amended to read:

13 939.62 (3) (a) In case of crimes committed in this state, the terms do not include
14 motor vehicle offenses under chs. 341 to 349, except for criminal violations of s.
15 346.63, and offenses handled through proceedings in the court assigned to exercise
16 jurisdiction under chs. 48 and 938, but otherwise have the meanings designated in
17 s. 939.60.

18 (b) In case of crimes committed in other jurisdictions, the terms do not include
19 those crimes which are equivalent to motor vehicle offenses under chs. 341 to 349,
20 except for criminal violations of s. 346.63, or to offenses handled through proceedings
21 in the court assigned to exercise jurisdiction under chs. 48 and 938. Otherwise,
22 felony means a crime which under the laws of that jurisdiction carries a prescribed
23 maximum penalty of imprisonment in a prison or penitentiary for one year or more.

Insert
5.11

BILL

SECTION 9

1 Misdemeanor means a crime which does not carry a prescribed maximum penalty
2 sufficient to constitute it a felony and includes crimes punishable only by a fine.

3 (END)

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0467/2ins
PJH:eev:ev

1 INSERT ANALYSIS1:

Under current law, a person whose operating privilege is restricted, as a result of an OWI offense, to operating vehicles equipped with an IID and who operates a motor vehicle that is not equipped with an IID is subject to a fine up to \$2,500 and imprisonment for up to one year in a county jail. Penalties increase if another person is harmed or killed in the course of the violation. ✓

2 INSERT ANALYSIS2:

Under the bill, the same penalties apply to a person whose operating privilege is restricted to operating vehicles equipped with an IID and who operates a motor vehicle that is not equipped with an IID, unless an increased penalty is warranted because another person is harmed or killed in the course of the violation. ✓

4 INSERT 4.25:

5 **SECTION 1.** 343.44 (2) (ar) 2. of the statutes is amended to read:

6 343.44 (2) (ar) 2. Except as provided in subds. 2m., 3. and 4., any person who
7 violates sub. (1) (b) shall be fined not more than \$2,500 or imprisoned for not more
8 than one year in the county jail or both if the revocation identified under sub. (1) (b)
9 resulted from an offense that may be counted under s. 343.307 (2).

History: 1971 c. 164 s. 83; 1971 c. 280, 307; 1973 c. 90; 1977 c. 29 s. 1654 (7) (a); 1977 c. 165, 272; 1979 c. 221; 1981 c. 20; 1983 a. 535; 1989 a. 12, 105, 336; 1991 a. 39, 64, 189, 277; 1995 a. 113; 1997 a. 84; 1999 s. 9, 32, 143; 2003 a. 33; 2005 a. 25, 254, 412; 2009 a. 28; 2011 a. 32, 113, 258; s. 13.92 (2) (i).

10 **SECTION 2.** 343.44 (2) (ar) 2m. of the statutes is created to read:

11 343.44 (2) (ar) 2m. Unless subds. 3. or 4. applies, any person who violates sub.
12 (1) (b) shall be sentenced under s. 347.50 if the violation constitutes a violation under
13 s. 343.413 (1m).

14 **SECTION 3.** 347.413 (title) of the statutes is amended to read:

15 **347.413 (title) Ignition interlock device tampering; failure operating a**
16 **vehicle not properly equipped; failing to install.**

History: 1991 a. 277; 1993 a. 213; 1999 a. 109; 2001 a. 16 ss. 3445f, 3445g, 4060hd, 4060hw, 4060hy; 2009 a. 100, 121.

End Ins 4.25

1 INSERT 5.11:

2 SECTION 4. 347.413 (1m) of the statutes is created to read:

3 347.413 (1m) No person who is subject to a court order under s. 346.65 (6), 1999
4 stats., or s. 343.301 (1), 2007 stats., or s. 343.301 (1g) may operate a motor vehicle
5 that is not equipped with an ignition interlock device.

6 SECTION 5. 347.50 (1s) of the statutes is amended to read:

7 347.50 (1s) Any person violating s. 347.413 (1) or (1m) or 347.417 (1) may be
8 fined not less than \$150 nor more than \$600, or may be imprisoned for not more than
9 6 months, or both for the first offense. For a 2nd or subsequent conviction within 5
10 years, the person may be fined not less than \$300 nor more than \$1,000, or
11 imprisoned for not more than 6 months, or both.

History: 1971 c. 278; 1975 c. 121; 1981 c. 327; 1983 a. 243; 1985 a. 309; 1987 a. 132; 1989 a. 22; 1991 a. 26, 277; 2001 a. 28; 2003 a. 166; 2005 a. 106, 193; 2007 a. 97; 2009 a. 28, 100.

History: >a. 97; 2009 a. 28, 100.

History: ss than \$25 nor more than \$200.

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INS EEV

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2

SECTION ~~#~~. 347.50 (1) of the statutes is amended to read:

3

347.50 (1) Any person violating ss. 347.35 to 347.49, except s. 347.385 (5), s.

4

347.413 (1) or (1m) or s. 347.415 (1m), (2) and (3) to (5) or s. 347.417 (1) or s. 347.475

5

or s. 347.48 (2m) or (4) or s. 347.489, may be required to forfeit not less than \$10 nor

6

more than \$200.



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0467/2

PJH:eev:jf

(other)

2013 BILL

d. 23-13

regen

1 AN ACT *to repeal* 343.301 (1g) (b) 1. and 343.301 (1g) (b) 2.; *to renumber and*
2 *amend* 343.301 (1g) (b) (intro.); *to amend* 343.10 (5) (a) 3., 343.301 (1g) (intro.),
3 343.301 (2m), 343.301 (4), 343.44 (2) (ar) 2., 347.413 (title), 347.413 (1), 347.50
4 (1), 347.50 (1s) and 939.62 (3) (a) and (b); and *to create* 343.44 (2) (ar) 2m. and
5 347.413 (1m) of the statutes; **relating to:** requiring an ignition interlock device
6 to be installed on certain vehicles for first drunken driving offenses, counting
7 certain drunken driving offenses when sentencing certain habitual criminal
8 offenders, interfering with the proper functioning of an ignition interlock
9 device, and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, a court is required to order a person's motor vehicle operating privilege be restricted to operating vehicles that are equipped with an ignition interlock device (IID) if a person commits a second or subsequent offense related to operating a vehicle while intoxicated (OWI offense) or a first offense while his or her alcohol concentration is 0.15 or greater, refuses to take a test for intoxication, or injures or kills a person while operating a vehicle while his or her alcohol concentration is 0.15 or greater or after he or she has committed a prior OWI

BILL

offense. The court may order the person to install an IID on every vehicle registered in his or her name, unless the court finds that such an order would impose an undue hardship on the person.

Under current law, a person whose operating privilege is restricted, as a result of an OWI offense, to operating vehicles equipped with an IID and who operates a motor vehicle that is not equipped with an IID is subject to a fine of up to \$2,500 and imprisonment for up to one year in a county jail. Penalties increase if another person is harmed or killed in the course of the violation.

Under current law, a person who fails to install an IID as ordered, or who tampers with, disconnects, or otherwise interferes with the proper operation of an IID, may be fined not less than \$150 nor more than \$600, imprisoned for up to six months, or both for the first offense. For a second or subsequent conviction within five years, the person may be fined not less than \$300 nor more than \$1,000, imprisoned for up to six months, or both.

Under current law, a court may impose a longer term of imprisonment than is normally prescribed on a person who is convicted of a crime if the person is a repeater, or habitual criminal. A person is a repeater if he or she was convicted of a felony during the five-year period immediately preceding the commission of the crime for which he or she is being sentenced, or if he or she was convicted of a misdemeanor on three separate occasions during that same period.

Under current law, misdemeanors and felonies that are traffic violations, including certain OWI offenses, are not counted for the purpose of determining whether a person is a repeater.

This bill requires a court to order the operating privileges of a person who commits a first OWI offense, regardless of his or her alcohol concentration, be restricted to operating vehicles that are equipped with an ignition interlock device. The bill requires the court to order the person to install an IID within three days on all vehicles registered in his or her name, except for motorcycles, unless such an order would impose an undue hardship on the person.

Under the bill, a person who is subject to an IID installation order and who possesses a device that is intended to interfere with the proper functioning of an IID may be fined not less than \$150 nor more than \$600, imprisoned for up to six months, or both for the first offense. For a second or subsequent conviction within five years, the person may be fined not less than \$300 nor more than \$1,000, imprisoned for up to six months, or both. Under the bill, the same penalties apply to a person whose operating privilege is restricted to operating vehicles equipped with an IID and who operates a motor vehicle that is not equipped with an IID, unless an increased penalty is warranted because another person is harmed or killed in the course of the violation.

Under the bill, misdemeanor or felony OWI offenses are counted for the purpose of determining whether a person is a repeater.

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analysis 1

Insert
analysis 2

BILL

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 343.10 (5) (a) 3. of the statutes is amended to read:

2 343.10 (5) (a) 3. The occupational license of the applicant shall restrict the
3 applicant's operation under the occupational license to vehicles that are equipped
4 with a functioning ignition interlock device if the court has ordered under s. 343.301
5 (1g) that the person's operating privilege for Class D vehicles be restricted to
6 operating vehicles that are equipped with an ignition interlock device or has ordered
7 under s. 346.65 (6) (a) 1., 1999 stats., that the motor vehicle owned by the person and
8 used in the violation or improper refusal be equipped with an ignition interlock
9 device. A person to whom a restriction under this subdivision applies violates that
10 restriction if he or she operates a motor vehicle that is not equipped with an ignition
11 interlock device, or if he or she removes or disconnects an ignition interlock device,
12 requests or permits another to blow into an ignition interlock device or to start a
13 motor vehicle equipped with an ignition interlock device for the purpose of providing
14 the person an operable motor vehicle without the necessity of first submitting a
15 sample of his or her breath to analysis by the ignition interlock device, possesses a
16 device that is intended to allow the user to circumvent or otherwise interfere with
17 the operation of the ignition interlock device, or otherwise tampers with or
18 circumvents the operation of the ignition interlock device. Except as provided in s.
19 343.301 (3) (b), if the occupational license restricts the applicant's operation to a
20 vehicle that is equipped with an ignition interlock device, the applicant shall be

BILL**SECTION 1**

1 liable for the reasonable costs of equipping the vehicle with the ignition interlock
2 device.

3 **SECTION 2.** 343.301 (1g) (intro.) of the statutes is amended to read:

4 343.301 (1g) (intro.) A court shall order a person's operating privilege for the
5 operation of "Class D" vehicles be restricted to operating vehicles that are equipped
6 with an ignition interlock device and, except as provided in sub. (1m), shall order that
7 each motor vehicle that is not a "Class M" vehicle for which the person's name
8 appears on the vehicle's certificate of title or registration be equipped with an
9 ignition interlock device if either of the following applies:

10 **SECTION 3.** 343.301 (1g) (b) (intro.) of the statutes is renumbered 343.301 (1g)
11 (b) and amended to read:

12 343.301 (1g) (b) The person violated s. 346.63 (1) or (2), 940.09 (1), or 940.25
13 ~~and either of the following applies:~~

14 **SECTION 4.** 343.301 (1g) (b) 1. of the statutes is repealed.

15 **SECTION 5.** 343.301 (1g) (b) 2. of the statutes is repealed.

16 **SECTION 6.** 343.301 (2m) of the statutes is amended to read:

17 343.301 (2m) The court shall restrict the operating privilege under sub. (1g)
18 for a period of not less than one year nor more than the maximum operating privilege
19 revocation period permitted for the refusal or violation, beginning on the date the
20 department issues any license granted under this chapter, except that if the
21 maximum operating privilege revocation period is less than one year, the court shall
22 restrict the operating privilege under sub. (1g) for one year. The court ~~may~~ shall
23 ~~order the installation of that~~ an ignition interlock device under sub. (1g) ~~immediately~~
24 upon be installed within 3 days after issuing an order under sub. (1g).

25 **SECTION 7.** 343.301 (4) of the statutes is amended to read:

BILL

1 343.301 (4) A person to whom an order under sub. (1g) applies violates that
2 order if he or she operates a motor vehicle that is not equipped with an ignition
3 interlock device, fails to have an ignition interlock device installed as ordered,
4 removes or disconnects an ignition interlock device, requests or permits another to
5 blow into an ignition interlock device or to start a motor vehicle equipped with an
6 ignition interlock device for the purpose of providing the person an operable motor
7 vehicle without the necessity of first submitting a sample of his or her breath to
8 analysis by the ignition interlock device, possesses a device that is intended to allow
9 the user to circumvent or otherwise interfere with the operation of the ignition
10 interlock device, or otherwise tampers with or circumvents the operation of the
11 ignition interlock device.

12 **SECTION 8.** 343.44 (2) (ar) 2. of the statutes is amended to read:

13 343.44 (2) (ar) 2. Except as provided in subds. 2m., 3. and 4., any person who
14 violates sub. (1) (b) shall be fined not more than \$2,500 or imprisoned for not more
15 than one year in the county jail or both if the revocation identified under sub. (1) (b)
16 resulted from an offense that may be counted under s. 343.307 (2).

17 **SECTION 9.** 343.44 (2) (ar) 2m. of the statutes is created to read:

18 343.44 (2) (ar) 2m. Unless subd. 3. or 4. applies, any person who violates sub.
19 (1) (b) shall be sentenced under s. 347.50 if the violation constitutes a violation under
20 s. 347.413 (1m).

21 **SECTION 10.** 347.413 (title) of the statutes is amended to read:

22 **347.413 (title) Ignition interlock device tampering; failure operating a**
23 **vehicle not properly equipped; failing to install.**

24 **SECTION 11.** 347.413 (1) of the statutes is amended to read:

BILL**SECTION 11**

1 347.413 (1) No person may remove, disconnect, tamper with, or otherwise
2 circumvent the operation of an ignition interlock device installed in response to the
3 court order under s. 346.65 (6), 1999 stats., or s. 343.301 (1), 2007 stats., or s. 343.301
4 (1g), or fail to have the ignition interlock device installed as ordered by the court. No
5 person who is subject to a court order under s. 346.65 (6), 1999 stats., 343.301 (1),
6 2007 stats., or 343.301 (1g) may possess a device that is intended to allow the user
7 to circumvent or otherwise interfere with the operation of an ignition interlock
8 device. This subsection does not apply to the removal of an ignition interlock device
9 upon the expiration of the order requiring the motor vehicle to be so equipped or to
10 necessary repairs to a malfunctioning ignition interlock device by a person
11 authorized by the department.

12 **SECTION 12.** 347.413 (1m) of the statutes is created to read:

13 347.413 (1m) No person who is subject to a court order under s. 346.65 (6), 1999
14 stats., s. 343.301 (1), 2007 stats., or s. 343.301 (1g) may operate a motor vehicle that
15 is not equipped with an ignition interlock device.

16 **SECTION 13.** 347.50 (1) of the statutes is amended to read:

17 347.50 (1) Any person violating ss. 347.35 to 347.49, except s. 347.385 (5), s.
18 347.413 (1) or (1m) or s. 347.415 (1m), (2) and (3) to (5) or s. 347.417 (1) or s. 347.475
19 or s. 347.48 (2m) or (4) or s. 347.489, may be required to forfeit not less than \$10 nor
20 more than \$200.

21 **SECTION 14.** 347.50 (1s) of the statutes is amended to read:

22 347.50 (1s) Any person violating s. 347.413 (1) or (1m) or 347.417 (1) may be
23 fined not less than \$150 nor more than \$600, or may be imprisoned for not more than
24 6 months, or both for the first offense. For a 2nd or subsequent conviction within 5

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1 years, the person may be fined not less than \$300 nor more than \$1,000, or
2 imprisoned for not more than 6 months, or both.

3 **SECTION 15.** 939.62 (3) (a) and (b) of the statutes are amended to read:

4 939.62 (3) (a) In case of crimes committed in this state, the terms do not include
5 motor vehicle offenses under chs. 341 to 349, except for criminal violations of s.
6 346.63, and offenses handled through proceedings in the court assigned to exercise
7 jurisdiction under chs. 48 and 938, but otherwise have the meanings designated in
8 s. 939.60.

9 (b) In case of crimes committed in other jurisdictions, the terms do not include
10 those crimes which are equivalent to motor vehicle offenses under chs. 341 to 349,
11 except for criminal violations of s. 346.63, or to offenses handled through proceedings
12 in the court assigned to exercise jurisdiction under chs. 48 and 938. Otherwise,
13 felony means a crime which under the laws of that jurisdiction carries a prescribed
14 maximum penalty of imprisonment in a prison or penitentiary for one year or more.
15 Misdemeanor means a crime which does not carry a prescribed maximum penalty
16 sufficient to constitute it a felony and includes crimes punishable only by a fine.

17 (END)

**2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0467/3ins
PJH:eev:jf

INSERT ANALYSIS 1:

Under current law, a person whose operating privilege ^{has been} suspended or revoked, as a result of an OWI offense, may generally obtain an occupational license that restricts the person to operating vehicles equipped with an IID. A person who operates a motor vehicle that is not equipped with an IID (violates a restriction) may be required to forfeit up to \$200 for the first offense, may be fined up to \$300 and imprisoned up to 30 days for the second offense occurring within three years, and may be fined up to \$500 and imprisoned for not more than six months for the third or subsequent offense occurring within three years. If a person whose operating privilege is suspended or revoked as a result of an OWI offense operates a motor vehicle without obtaining an occupational license (operates after revocation), he or she may be fined up to \$2500 and imprisoned for up to one year. Penalties increase for operating after revocation ^{if} ~~is~~ another person ^{is} ~~on~~ harmed or killed in the course of the violation.

^{who} **INSERT ANALYSIS 2:**

violates a restriction or who operates after revocation if he or she operates a motor vehicle that is not equipped with an IID,

INSERT:

SECTION 1. 343.43 (3) (intro.) of the statutes is amended to read:

343.43 (3) (intro.) Except as provided in sub. (3m) and (3r), any person who violates sub. (1) shall be:

History: 1975 c. 5, 199; 1977 c. 29 s. 1654 (7) (a), (c); 1977 c. 360, 447; 1979 c. 306; 1981 c. 20 s. 1848r; 1983 a. 36, 534; 1989 a. 105; 1991 a. 189, 230; 1999 a. 9; 2007 a. 20; 2009 a. 28.

SECTION 2. 343.43 (3r) of the statutes is created to read:

343.43 (3r) Any person who violates sub. (1) (d) while operating a "Class D" or "Class M" vehicle as described in s. 343.04 (1) (d) and (e), except a school bus, shall be sentenced under s. 347.50 if the restriction violated is a restriction imposed pursuant to s. 343.10 (5) (a) 3. or the violation constitutes a violation under s. 347.413 (1m).



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0467/4

PJH:eev:rs

5
1m

2013 BILL

11-26-13

repeal

1 AN ACT *to repeal* 343.301 (1g) (b) 1. and 343.301 (1g) (b) 2.; *to renumber and*
2 *amend* 343.301 (1g) (b) (intro.); *to amend* 343.10 (5) (a) 3., 343.301 (1g) (intro.),
3 343.301 (2m), 343.301 (4), 343.43 (3) (intro.), 343.44 (2) (ar) 2., 347.413 (title),
4 347.413 (1), 347.50 (1), 347.50 (1s) and 939.62 (3) (a) and (b); and *to create*
5 343.43 (3r), 343.44 (2) (ar) 2m. and 347.413 (1m) of the statutes; **relating to:**
6 requiring an ignition interlock device to be installed on certain vehicles for first
7 drunken driving offenses, counting certain drunken driving offenses when
8 sentencing certain habitual criminal offenders, interfering with the proper
9 functioning of an ignition interlock device, and providing a penalty.

committing a

Analysis by the Legislative Reference Bureau

Under current law, a court is required to order a person's motor vehicle operating privilege be restricted to operating vehicles that are equipped with an ignition interlock device (IID) if a person commits a second or subsequent offense related to operating a vehicle while intoxicated (OWI offense) or a first offense while his or her alcohol concentration is 0.15 or greater, refuses to take a test for intoxication, or injures or kills a person while operating a vehicle while his or her alcohol concentration is 0.15 or greater or after he or she has committed a prior OWI

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offense. The court may order the person to install an IID on every vehicle registered in his or her name, unless the court finds that such an order would impose an undue hardship on the person.

Under current law, a person whose operating privilege has been suspended or revoked, as a result of an OWI offense, may generally obtain an occupational license that restricts the person to operating vehicles equipped with an IID. A person who operates a motor vehicle that is not equipped with an IID (violates a restriction) may be required to forfeit up to \$200 for the first offense, may be fined up to \$300 and imprisoned up to 30 days for the second offense occurring within three years, and may be fined up to \$500 and imprisoned for not more than six months for the third or subsequent offense occurring within three years. If a person whose operating privilege is suspended or revoked as a result of an OWI offense operates a motor vehicle without obtaining an occupational license (operates after revocation), he or she may be fined up to \$2500 and imprisoned for up to one year. Penalties increase for operating after revocation if another person is harmed or killed in the course of the violation.

Under current law, a person who fails to install an IID as ordered, or who tampers with, disconnects, or otherwise interferes with the proper operation of an IID, may be fined not less than \$150 nor more than \$600, imprisoned for up to six months, or both for the first offense. For a second or subsequent conviction within five years, the person may be fined not less than \$300 nor more than \$1,000, imprisoned for up to six months, or both.

Under current law, a court may impose a longer term of imprisonment than is normally prescribed on a person who is convicted of a crime if the person is a repeater, or habitual criminal. A person is a repeater if he or she was convicted of a felony during the five-year period immediately preceding the commission of the crime for which he or she is being sentenced, or if he or she was convicted of a misdemeanor on three separate occasions during that same period.

Under current law, misdemeanors and felonies that are traffic violations, including certain OWI offenses, are not counted for the purpose of determining whether a person is a repeater.

any This bill requires a court to order the operating privileges of a person who commits a first OWI offense, regardless of his or her alcohol concentration, *to* be restricted to operating vehicles that are equipped with an ignition interlock device.

The bill requires the court to order the person to install an IID within three days on all vehicles registered in his or her name, except for motorcycles, unless such an order would impose an undue hardship on the person.

Under the bill, a person who is subject to an IID installation order and who possesses a device that is intended to interfere with the proper functioning of an IID may be fined not less than \$150 nor more than \$600, imprisoned for up to six months, or both for the first offense. For a second or subsequent conviction within five years, the person may be fined not less than \$300 nor more than \$1,000, imprisoned for up to six months, or both. Under the bill, the same penalties apply to a person who violates a restriction or who operates after revocation if he or she operates a motor

BILL

vehicle that is not equipped with an IID, unless an increased penalty is warranted because another person is harmed or killed in the course of the violation.

Under the bill, misdemeanor or felony OWI offenses are counted for the purpose of determining whether a person is a repeater.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 343.10 (5) (a) 3. of the statutes is amended to read:

2 343.10 (5) (a) 3. The occupational license of the applicant shall restrict the
3 applicant's operation under the occupational license to vehicles that are equipped
4 with a functioning ignition interlock device if the court has ordered under s. 343.301
5 (1g) that the person's operating privilege for Class D vehicles be restricted to
6 operating vehicles that are equipped with an ignition interlock device or has ordered
7 under s. 346.65 (6) (a) 1., 1999 stats., that the motor vehicle owned by the person and
8 used in the violation or improper refusal be equipped with an ignition interlock
9 device. A person to whom a restriction under this subdivision applies violates that
10 restriction if he or she operates a motor vehicle that is not equipped with an ignition
11 interlock device, or if he or she removes or disconnects an ignition interlock device,
12 requests or permits another to blow into an ignition interlock device or to start a
13 motor vehicle equipped with an ignition interlock device for the purpose of providing
14 the person an operable motor vehicle without the necessity of first submitting a
15 sample of his or her breath to analysis by the ignition interlock device, possesses a
16 device that is intended to allow the user to circumvent or otherwise interfere with
17 the operation of the ignition interlock device, or otherwise tampers with or
18 circumvents the operation of the ignition interlock device. Except as provided in s.
19 343.301 (3) (b), if the occupational license restricts the applicant's operation to a

↑ Insert A

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1 **SECTION 7.** 343.301 (4) of the statutes is amended to read:

2 343.301 (4) A person to whom an order under sub. (1g) applies violates that
3 order if he or she operates a motor vehicle that is not equipped with an ignition
4 interlock device, fails to have an ignition interlock device installed as ordered,
5 removes or disconnects an ignition interlock device, requests or permits another to
6 blow into an ignition interlock device or to start a motor vehicle equipped with an
7 ignition interlock device for the purpose of providing the person an operable motor
8 vehicle without the necessity of first submitting a sample of his or her breath to
9 analysis by the ignition interlock device, possesses a device that is intended to allow
10 the user to circumvent or otherwise interfere with the operation of the ignition
11 interlock device, or otherwise tampers with or circumvents the operation of the
12 ignition interlock device.

13 **SECTION 8.** 343.43 (3) (intro.) of the statutes is amended to read:

14 343.43 (3) (intro.) Except as provided in sub. (3m) and (3r), any person who
15 violates sub. (1) shall be:

16 **SECTION 9.** 343.43 (3r) of the statutes is created to read:

17 343.43 (3r) Any person who violates sub. (1) (d) while operating a "Class D" or
18 "Class M" vehicle as described in s. 343.04 (1) (d) and (e), except a school bus, shall
19 be sentenced under s. 347.50 if the restriction violated is a restriction imposed
20 pursuant to s. 343.10 (5) (a) 3. or the violation constitutes a violation under s. 347.413
21 (1m).

22 **SECTION 10.** 343.44 (2) (ar) 2. of the statutes is amended to read:

23 343.44 (2) (ar) 2. Except as provided in subds. 2m., 3. and 4., any person who
24 violates sub. (1) (b) shall be fined not more than \$2,500 or imprisoned for not more

BILL

1 than one year in the county jail or both if the revocation identified under sub. (1) (b)
2 resulted from an offense that may be counted under s. 343.307 (2).

3 **SECTION 11.** 343.44 (2) (ar) 2m. of the statutes is created to read:

4 343.44 (2) (ar) 2m. Unless subd. 3. or 4. applies, any person who violates sub.
5 (1) (b) shall be sentenced under s. 347.50 if the violation constitutes a violation under
6 s. 347.413 (1m).

7 **SECTION 12.** 347.413 (title) of the statutes is amended to read:

8 **347.413 (title) Ignition interlock device tampering; failure operating a**
9 **vehicle not properly equipped; failing to install.**

10 **SECTION 13.** 347.413 (1) of the statutes is amended to read:

11 347.413 (1) No person may remove, disconnect, tamper with, or otherwise
12 circumvent the operation of an ignition interlock device installed in response to the
13 court order under s. 346.65 (6), 1999 stats., or s. 343.301 (1), 2007 stats., or s. 343.301
14 (1g), or fail to have the ignition interlock device installed as ordered by the court. No
15 person who is subject to a court order under s. 346.65 (6), 1999 stats., 343.301 (1),
16 2007 stats., or 343.301 (1g) may possess a device that is intended to allow the user
17 to circumvent or otherwise interfere with the operation of an ignition interlock
18 device. This subsection does not apply to the removal of an ignition interlock device
19 upon the expiration of the order requiring the motor vehicle to be so equipped or to
20 necessary repairs to a malfunctioning ignition interlock device by a person
21 authorized by the department.

22 **SECTION 14.** 347.413 (1m) of the statutes is created to read:

23 347.413 (1m) No person who is subject to a court order under s. 346.65 (6), 1999
24 stats., s. 343.301 (1), 2007 stats., or s. 343.301 (1g) may operate a motor vehicle that
25 is not equipped with an ignition interlock device.

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1 **SECTION 15.** 347.50 (1) of the statutes is amended to read:

2 347.50 (1) Any person violating ss. 347.35 to 347.49, except s. 347.385 (5), s.
3 347.413 (1) or (1m) or s. 347.415 (1m), (2) and (3) to (5) or s. 347.417 (1) or s. 347.475
4 or s. 347.48 (2m) or (4) or s. 347.489, may be required to forfeit not less than \$10 nor
5 more than \$200.

6 **SECTION 16.** 347.50 (1s) of the statutes is amended to read:

7 347.50 (1s) Any person violating s. 347.413 (1) or (1m) or 347.417 (1) may be
8 fined not less than \$150 nor more than \$600, or may be imprisoned for not more than
9 6 months, or both for the first offense. For a 2nd or subsequent conviction within 5
10 years, the person may be fined not less than \$300 nor more than \$1,000, or
11 imprisoned for not more than 6 months, or both.

12 **SECTION 17.** 939.62 (3) (a) and (b) of the statutes are amended to read:

13 939.62 (3) (a) In case of crimes committed in this state, the terms do not include
14 motor vehicle offenses under chs. 341 to 349, except for criminal violations of s.
15 346.63, and offenses handled through proceedings in the court assigned to exercise
16 jurisdiction under chs. 48 and 938, but otherwise have the meanings designated in
17 s. 939.60.

18 (b) In case of crimes committed in other jurisdictions, the terms do not include
19 those crimes which are equivalent to motor vehicle offenses under chs. 341 to 349,
20 except for criminal violations of s. 346.63, or to offenses handled through proceedings
21 in the court assigned to exercise jurisdiction under chs. 48 and 938. Otherwise,
22 felony means a crime which under the laws of that jurisdiction carries a prescribed
23 maximum penalty of imprisonment in a prison or penitentiary for one year or more.

BILL**SECTION 17**

1 Misdemeanor means a crime which does not carry a prescribed maximum penalty
2 sufficient to constitute it a felony and includes crimes punishable only by a fine.

3 (END)

Section Initial Applicability

(1) This act first applies to violations committed on the effective date of this subsection

BILL

This bill requires a court to order the operating privileges of a person who commits any OWI offense, regardless of his or her alcohol concentration, to be restricted to operating vehicles that are equipped with an ignition interlock device.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows: Insert A

SECTION 1. 343.301 (1g) (intro.) of the statutes is amended to read:

343.301 (1g) (intro.) A court shall order a person's operating privilege for the operation of "Class D" vehicles be restricted to operating vehicles that are equipped with an ignition interlock device and, except as provided in sub. (1m), shall order that each motor vehicle that is not a "Class M" vehicle for which the person's name appears on the vehicle's certificate of title or registration be equipped with an ignition interlock device if either of the following applies:

SECTION 2. 343.301 (1g) (b) (intro.) of the statutes is renumbered 343.301 (1g) (b) and amended to read:

343.301 (1g) (b) The person violated s. 346.63 (1) or (2), 940.09 (1), or 940.25 and either of the following applies:.

SECTION 3. 343.301 (1g) (b) 1. of the statutes is repealed.

SECTION 4. 343.301 (1g) (b) 2. of the statutes is repealed.

SECTION 5. 343.301 (2m) of the statutes is amended to read:

343.301 (2m) The court shall restrict the operating privilege under sub. (1g) for a period of not less than one year nor more than the maximum operating privilege revocation period permitted for the refusal or violation, beginning on the date the department issues any license granted under this chapter, except that if the maximum operating privilege revocation period is less than one year, the court shall restrict the operating privilege under sub. (1g) for one year. The court ~~may~~ shall

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1 order the installation of ~~that~~ an ignition interlock device under sub. (1g) immediately
2 ~~upon be installed within 3 days after issuing an order under sub. (1g).~~

3 (b) In case of crimes committed in other jurisdictions, the terms do not include
4 those crimes which are equivalent to motor vehicle offenses under chs. 341 to 349,
5 except for criminal violations of s. 346.63, or to offenses handled through proceedings
6 in the court assigned to exercise jurisdiction under chs. 48 and 938. Otherwise,
7 felony means a crime which under the laws of that jurisdiction carries a prescribed
8 maximum penalty of imprisonment in a prison or penitentiary for one year or more.
9 Misdemeanor means a crime which does not carry a prescribed maximum penalty
10 sufficient to constitute it a felony and includes crimes punishable only by a fine.

11 **~~SECTION 6. Initial applicability.~~**

12 (1) This act first applies to ~~violations committed~~ on the effective date of this
13 subsection.

14 ~~(END)~~

Barman, Mike

From: Ramirez, Adrienne
Sent: Tuesday, January 21, 2014 4:53 PM
To: LRB.Legal
Subject: Draft Review: LRB -0467/5 Topic: Counting OWI convictions toward habitual criminality

Please Jacket LRB -0467/5 for the ASSEMBLY.